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SIPDIS

EUR/CE FOR YEAGER, OSD FOR MITCHELL

E.O. 12958: DECL: 06/12/2019  
TAGS: [PREL](#) [PM](#) [MAPP](#) [PL](#)  
SUBJECT: SEVENTH US-POLISH SOFA PLENARY MAKES MODEST  
PROGRESS

REF: A. WARSAW 433  
[1](#)B. WARSAW 466  
[1](#)C. WARSAW 564

Classified By: CDA Quanrud for reasons 1.4 b and d

[1](#)1. (SBU) U.S. and Polish delegations made some progress in round seven of U.S.-Poland SOFA negotiations held in Warsaw June 8-10, but fell short of the ambitious agenda articulated by the Polish side. Deputy Defense Minister Stanislaw Komorowski, Deputy Foreign Minister Andrzej Kremer, and Deputy Finance Minister Jacek Dominik led the Polish delegation. Ambassador Jackson McDonald, Special Advisor for Security Negotiations and Agreements, led the U.S. delegation.

[1](#)2. (C) In the one-on-one initial session, Komorowski reiterated to Ambassador McDonald that he wanted to finish the plenary with a clean text minus the three to five issues that would require higher political resolution (ref a).

[1](#)3. (SBU) The sides reached full, provisional agreement on several articles - Customs Procedures, Health, Implementation of Disputes, and Final Provisions. The sides agreed to delete Protection of Information from the text as it is already covered in a separate bilateral agreement.

[1](#)4. (C) Major differences persist, however. A short sample: In contrast to other NATO member states, Poland refuses point-of-sale VAT exemption and insists on reimbursement, which U.S. DOD rejects (although Dominik has agreed to consider a U.S. proposal that may bridge this gap). Poland has not agreed to grant profit tax exemption for contractors and income tax exemption for contractor employees. Poland insists that USG contracts be concluded in accordance with Polish law rather than in accordance with U.S. law as we require. Neither claims nor jurisdiction were discussed at this round due to lack of time, but in previous rounds Poland had refused to adhere to claims procedures as outlined in the NATO SOFA. On jurisdiction, while not discussed in Plenary, it was suggested elsewhere that Poland may propose an arrangement similar to the one we have with Spain and the Czech Republic.

[1](#)5. (C) Several themes permeated the negotiations. Broadly speaking Poland seems to expect special treatment not accorded other NATO members. Poland also seems to expect substantive compliance with Polish law and does not seem to accept the principle that one sovereign does not comply with the laws of another -- a theme that recurs throughout the draft. Finally, the GOP appears to be afraid that the USG will undercut Polish firms by making contracts with non-Polish firms and importing goods and services from outside of Poland.

[1](#)6. (SBU) The next round is scheduled for July 14-16 in

Washington. Working groups on Finance and Environment will convene in person or electronically in the meantime.

¶7. (C) COMMENT. Komorowski entered the seventh round hoping to complete the majority of the work and perhaps conclude SOFA negotiations at the next round in July (ref b and c), although he had largely abandoned this hope by the end of the first day of talks. Unfortunately, the Polish side systematically overestimates the amount of text that can be negotiated in a three-day round, and underestimates the seriousness of the points upon which our positions diverge. While we try to accommodate the Poles' concerns whenever possible, they are often asking us to yield on points where we have no flexibility for policy and/or legal reasons. Despite Komorowski's public statements about submitting the SOFA for ratification in September, it is more likely that September will see the ninth round of negotiations. END COMMENT.

¶8. Ambassador McDonald has cleared on this cable.  
QUANRUD